

EXHIBIT A



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1722-CC07337 - BELLE-BOO LLC V UNION PACIFIC RAILROAD
COMPANY (E-CASE)

Case Header	Parties & Attorneys	Docket Entries	Charges, Judgments & Sentences	Service Information	Filings Due	Scheduled Hearings & Trials	Civil Judgments	Garnishments/Execution
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06/28/2017

Notice of Service

Notice of Service.

Filed By: JAMES GERARD NOWOGROCKI

On Behalf Of: BELLE BOO LLC

Corporation Served

Document ID - 17-SMCC-5756; Served To - UNION PACIFIC RAILROAD COMPANY; Server - ; Served Date - 26-JUN-17; Served Time - 00:00:00; Service Type - Sheriff Department; Reason Description - Served

Jury Trial Scheduled

Scheduled For: 12/11/2017; 9:00 AM ; MICHAEL KELLAN MULLEN; City of St. Louis

06/13/2017

Summons Issued-Circuit

Document ID: 17-SMCC-5756, for UNION PACIFIC RAILROAD COMPANY.

Filing Info Sheet eFiling

Filed By: JAMES GERARD NOWOGROCKI

Pet Filed in Circuit Ct

Petition.

Filed By: JAMES GERARD NOWOGROCKI

On Behalf Of: BELLE BOO LLC

Judge Assigned

IN THE CIRCUIT COURT OF ST. LOUIS CITY
STATE OF MISSOURI

BELLE-BOO, LLC
d/b/a THE NEIGHBORHOOD CAR WASH

Plaintiff,

v.

UNION PACIFIC RAILROAD COMPANY,

Serve Registered Agent:

The Corporation Company
120 South Central Avenue
Clayton, MO 63105

Defendant.

Cause No.

Division

JURY TRIAL DEMANDED

PETITION

COMES NOW Plaintiff Belle-Boo, LLC d/b/a The Neighborhood Car Wash, by and through its attorneys, and for its claims against Defendant, Union Pacific Railroad Company, hereby state as follows:

1. Plaintiff, Belle-Boo, LLC d/b/a The Neighborhood Car Wash ("**Plaintiff**"), is, and at all times relevant hereto was, a limited liability company organized under the laws of the State of Missouri and registered to do business in the State of Missouri, with its principal place of business in the City of St. Louis, Missouri.

2. Defendant, Union Pacific Railroad Company ("**Union Pacific**"), is, and at all times relevant hereto was, a corporation organized under the laws of the State of Delaware and registered to do business in the State of Missouri, with its principal place of business in Omaha, Nebraska.

3. Plaintiff was first injured by the acts and omissions of Union Pacific while the

Plaintiff was located in the City of St. Louis, Missouri, and therefore, venue is proper in this court. Moreover, all of the acts and omissions alleged herein have occurred in the City of St. Louis, Missouri.

4. This Court has original jurisdiction of this matter.

ALLEGATIONS COMMON TO ALL COUNTS

5. Plaintiff is in the business of providing automated and self-service car wash services. Its property consists of a large parking lot and a building which houses two automated mechanical car washes, five self-service car wash bays, and office space.

6. Plaintiff's property is located at 3233 S Kingshighway Blvd, St. Louis, Missouri 63139, with the front of its building facing east.

7. Adjacent to the south side of Plaintiff's property runs a stretch of property owned by Union Pacific.

8. Plaintiff's customers enter from the front of Plaintiff's building and exit out the back of the building into the property's back parking lot, either through the automated car wash or by pulling through one of the self-service bays.

9. Located directly behind Plaintiff's property is another company, Margay Racing, whose building and parking lot are elevated above Plaintiff's property.

10. A retaining wall runs along the back boundary of Plaintiff's property.

11. By early January 2014, Union Pacific dug and constructed a square, open trench drainage ditch, adjacent to its railroad tracks, but the trench/drainage ditch serves no purpose concerning the actual rail operations of the Defendant. Since the construction of the trench/drainage ditch, and on rain occasions, there is continuous and repeated instances of significant storm water accumulation, volume and runoff that invades Plaintiff's property with

excessive amount of water, debris and mud.

12. Since the installation of the trench/drainage ditch, on a continuous and repeated basis, the storm water and mud rapidly flow downhill up and over Plaintiff's retaining wall, accumulating on and leaving debris on Plaintiff's property.

13. When the City of St. Louis experiences heavy rain, on a continuous and repeated basis, Plaintiff's parking lot, automatic car washes, self-service car wash bays, and office space are flooded by water, mud and debris.

14. When the City of St. Louis experiences heavy rains, on a continuous and repeated basis, storm and surface water from the Defendant's property would dump mud and debris thus destroying the Plaintiff's retaining wall and because of the high volume of this water, it has adversely impacted the structural integrity of the plaintiff's retaining wall, all causing interruption of Plaintiff's car wash business.

15. As a result of the excessive water and mud flowing from Defendant's property on a continuous and repeated basis, Plaintiff incurs clean-up costs and, on multiple occasions, Plaintiff has been forced to shut down the operations of its car wash business.

16. Plaintiff has suffered and continues to incur damages associated with business interruption, loss of goodwill, lost profits, lost business opportunity and lost value as a result of Union Pacific's actions.

**COUNT I – UNREASONABLE DIVERSION OF SURFACE AND STORM
WATER**

17. Plaintiff re-alleges and incorporates by reference Paragraphs 1-16 as Paragraph 16 of Count I.

18. As an adjoining property owner, Union Pacific owed and continues to owe Plaintiff a duty to reasonably use its land and not to needlessly or negligently injure Plaintiff's

adjoining property and car wash business by surface water.

19. Union Pacific breached its duty to Plaintiff by harmfully and unreasonably interfering with the flow of surface water with the construction of the trench/drainage ditch, and failure to maintain it, which is causing excessive water, mud and debris to continually and repeatedly flow and accumulate onto Plaintiff's property.

20. By its construction of the trench/drainage ditch, Union Pacific has breached its duty by its harmful interference with the flow of surface and storms waters which is unreasonable given the size and design of the trench/drainage ditch and the location of Plaintiff's adjoining property and car wash business.

21. As a direct and proximate result of the Defendant's acts and omissions as described hereinabove, the Plaintiff has been damaged because of business interruption, lost profits, actual damages, special damages of labor costs, loss of customer goodwill, harm to its business reputation, economic damages, property damage, lost business opportunity, cost of multiple clean ups, and attorney fees and costs.

22. The Defendant's acts and omissions described herein were done in a willful manner and with a reckless disregard to Plaintiff's legal rights.

WHEREFORE, Plaintiff Belle-Boo, LLC d/b/a The Neighborhood Car Wash, prays that this Court enter judgment in its favor and against the Defendant; award Plaintiff actual, special and punitive damages in excess of \$25,000; award Plaintiff its fees and costs and such other relief this Court deems just and proper.

COUNT II – TEMPORARY NUISANCE

23. Plaintiff re-alleges and incorporates by reference Paragraphs 1-16 as Paragraph 23 of Count II.

24. Union Pacific constructed its trench/drainage ditch, which does not involve its rail operations, and each when it rains, there is continuous and repeated instance of significant storm water accumulation and runoff from Defendant's property that interferes with Plaintiff's use and enjoyment of its property and car wash business.

25. Union Pacific unreasonably uses its trench/drainage ditch, which does not involve rail operations, such that it substantially impairs the Plaintiff's right to peacefully use its property and car wash business on continuous and repeated basis.

26. As a direct and proximate result of Union Pacific's interference with and impairment of Plaintiff's right to peacefully use its property and car wash business, the Plaintiff has suffered damages on a continuing and repeated basis, since the construction of the trench/drainage ditch, after it rains.

27. Plaintiff has suffered damages, including but not limited to, a decrease in its property's useful value while the nuisance described hereinabove exists, and has also incurred other incidents of damage, including, for example, loss of use and compensatory damages for inconvenience and discomfort caused by the nuisance involving the trench/drainage ditch and significant storm water accumulation and runoff.

WHEREFORE, Plaintiff Belle-Boo, LLC d/b/a The Neighborhood Car Wash, prays that this Court enter judgment in its favor and against the Defendant; award Plaintiff actual, special and compensation damages in excess of \$25,000; award Plaintiff its fees and costs and such other relief this Court deems just and proper.

Respectfully submitted,

WEISS ATTORNEYS AT LAW, P.C.

By: /s/ James G. Nowogrocki

James G. Nowogrocki, #38559
1015 Locust Street, Suite 400
St. Louis, Missouri 63101
(314) 588-9500 – Telephone
(314) 588-9595 – Facsimile
jnowogrocki@weisslawstl.com

By: /s/ Morgan L. Taylor

Morgan L. Taylor, #67750
1015 Locust Street, Suite 400
St. Louis, Missouri 63101
(314) 588-9500 – Telephone
(314) 588-9595 – Facsimile
mtaylor@weisslawstl.com

Attorneys for Plaintiff


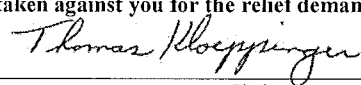
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IN THE 22ND JUDICIAL CIRCUIT COURT, CITY OF ST LOUIS, MISSOURI

Judge or Division: MICHAEL KELLAN MULLEN	Case Number: 1722-CC07337	Special Process Server 1
Plaintiff/Petitioner: BELLE BOO LLC	Plaintiff's/Petitioner's Attorney/Address JAMES GERARD NOWOGROCKI 1015 Locust Street SUITE 400 ST LOUIS, MO 63101	Special Process Server 2
Defendant/Respondent: UNION PACIFIC RAILROAD COMPANY	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	Special Process Server 3
Nature of Suit: CC Property Damage		(Date File Stamp)

Summons in Civil Case

The State of Missouri to: UNION PACIFIC RAILROAD COMPANY Alias: THE CORPORATION COMPANY 120 SOUTH CENTRAL AVENUE CLAYTON, MO 63105	COLE COUNTY, MO
 COURT SEAL OF CITY OF ST LOUIS	You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition. June 13, 2017 Date Further Information:
	Clerk 

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____

Served at _____ (address)
 in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$ _____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

RETURN SB 7-13



IN THE 22ND JUDICIAL CIRCUIT COURT, CITY OF ST LOUIS, MISSOURI

Judge or Division: MICHAEL KELLAN MULLEN	Case Number: 1722-CC07337	Special Process Server 1
Plaintiff/Petitioner: BELLE BOO LLC	Plaintiff's/Petitioner's Attorney/Address JAMES GERARD NOWOGROCKI 1015 Locust Street SUITE 400 ST LOUIS, MO 63101	Special Process Server 2
Defendant/Respondent: UNION PACIFIC RAILROAD COMPANY	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	Special Process Server 3
Nature of Suit: CC Property Damage		(Date File Stamp)

Summons in Civil Case

The State of Missouri to: **UNION PACIFIC RAILROAD COMPANY**
Alias: **COLE COUNTY, MO**

THE CORPORATION COMPANY
120 SOUTH CENTRAL AVENUE
CLAYTON, MO 63105

30 CTOR

COURT SEAL OF

CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

June 13, 2017
Date

Thomas Bloppinger
Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☒ other _____ (name) _____ (title).

Served at **THE CORPORATION CO. LCW - B. LOVE** (address)
in **St. Louis County** (County/City of St. Louis), MO, on **JUN 26 2017** (date) at **9 AM** (time).

LEISINGER
Printed Name of Sheriff or Server

[Signature]
Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date)

My commission expires: _____ (date)

(Seal)

Sheriff's Fees

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent for methods of service on all classes of suits, see Supreme Court Rule 54.

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